

ARTICLE 3

DEVELOPMENT REVIEW PROCEDURES

SECTION 3.1 SUMMARY OF REVIEW AUTHORITY

The following table summarizes review and approval authority under this UDO.

	Planning Staff	Subdivision Review Board	Board of Adjustment	Planning Board	Board of Commissioners	UDO Reference
Zoning Permit	Decision					§3.3
Sign Permit	Decision					§3.4
Floodplain Development Permit	Decision					§3.5
Floodplain Variance	Review		Decision**			§3.6
Text Amendment	Review			Review*	Decision*	§3.7
General Use Rezoning	Review			Review*	Decision*	§3.8
Conditional Use Permit	Review			Review*	Decision**	§3.9
Conditional Use District Rezoning	Review			Review	Decision**	§3.10
Conditional Zoning	Review			Review*	Decision*	§3.11
Planned Unit Development (PUD)	Review			Review*	Decision*	§3.11
Special Non-Residential Intensity Allocation	Review			Decision		§3.12
Watershed Density Averaging Certificate	Review			Decision		§3.13
Administrative Appeal			Decision**			§3.14
Variances	Review		Decision**			§3.15
Level 1 Minor Subdivision	Decision					§3.16
Level 2 Minor Subdivision	Review	Decision				§3.17
Family Subdivision	Decision					§3.18
Major Subdivision	Review	Decision				§3.19 §3.20
Subdivision Waiver	Review	Decision				§3.21
Vested Rights					Decision	§3.22
Extra-Territorial Jurisdiction (ETJ) Expansion	Review			Review*	Decision*	§3.23
*Public Hearing is required.						
**Quasi-Judicial Public Hearing is required.						

TABLE 3.1 Summary of Review Authority

SECTION 3.2 COMMON REVIEW PROCEDURES

3.2.1 Application Requirements

Applications required under this UDO shall be submitted on forms and in such numbers as required by Moore County Planning and Community Development.

3.2.2 Fees

- 3.2.201 All applications and associated fees shall be filed with the Planning and Community Development Department at the time of submittal.
- 3.2.202 An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution to a board for review shall be entitled to a refund of the amount paid upon written request to the Planning and Community Development Department. Once review has begun, no refund shall be available.
- 3.2.203 The applicant shall submit the cost of postage to notify all adjacent landowners as required in **§3.2.4** (Public Notice).

3.2.3 Completeness Review

- 3.2.301 All applications shall be sufficient for processing before staff is required to review the application.
- 3.2.302 An application shall be sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this UDO.
- 3.2.303 Once the application has been determined sufficient for processing, copies of the application shall be referred by staff to the appropriate reviewing entities.
- 3.2.304 The review officials may require an applicant to present evidence of authority to submit the application

3.2.4 Public Notice

- 3.2.401 Notice shall be required for public hearings of applications for approval as shown in Table 3.2.4: (NCGS [153A-343](#))
- 3.2.402 **Published Notice.** Where published notice is required, a distinctive advertisement shall be placed by the County in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than 10 days nor more than 25 days before the date fixed for the public hearing.
- 3.2.403 **Mailed Notices.** Where mailed notice is required, the County shall notify by certified mail return receipt requested (at the last addresses listed for such owners in the County tax records) the applicant and all adjacent property owners of the

property(s) in question. The notice shall be mailed at least ten but not more than 25 days prior to the date of the public hearing.

- 3.2.404 **Posted Notice.** Where posted notice is required, a sign shall be posted by the County not less than ten days prior to the public hearing at which the application shall be reviewed. The sign shall be posted on the property or at a point visible from the nearest public road.
- 3.2.405 Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a *bona fide* attempt has been made to comply with applicable notice requirements.
- 3.2.406 If the adoption or modification of any amendment of the Unified Development Ordinance will result in changes to the following (zoning map, changes that affect the permitted uses of land, changes related to telecommunications towers or windmills, changes to proposed new major subdivision preliminary plats, or an increase in the size of an approved subdivision by more than fifty percent (50%) of the subdivision's total land area, including developed and undeveloped land), which are located within five miles or less from the perimeter boundary of a military base, the Board of Commissioners or Planning Board shall provide written notice of the proposed changes by certified mail, or by any other written means reasonably designed to provide actual notice to the commander of the military base or the commander's designee not less than 10 days or more than 25 days before the date fixed for the public hearing.: (NCGS [153A-323\(b\)](#))
- 3.2.407 Prior to the date of public hearing, the military may provide comments or analysis to the Board, regarding the compatibility of the proposed changes with military operations at the base. If the Board does not receive a response within 30 days of the notice, the military is deemed to waive the comment period.

	Published (Newspaper)	Mailed (Certified)	Posted (Sign)
Text Amendments	✓		
Rezoning	✓	✓	✓
Conditional Use Permit	✓	✓	✓
Conditional Use District	✓	✓	✓
Conditional Zoning District	✓	✓	✓
Planned Unit Development	✓	✓	✓
Variance	✓	✓	✓
Extra-Territorial Jurisdiction (ETJ) Expansion	✓	✓	

TABLE 3.2.4 Public Notice Requirements

3.2.5 Public Meetings

A public hearing shall be required for development review as shown in table 3.2.5.

	Board of Adjustment	Planning Board	Board of Commissioners
Text Amendments		✓	✓
Rezoning		✓	✓
Conditional Use Permit		✓	✓*
Conditional Use District		✓	✓*
Conditional Zoning District		✓	✓
Planned Unit Development		✓	✓*
Administrative Appeal	✓*		
Variance	✓*		
Extra-Territorial Jurisdiction (ETJ) Expansion		✓	✓
*Denotes hearing is evidentiary in nature and must follow quasi-judicial procedures.			

TABLE 3.2.5 Public Meeting Summary

3.2.6 Notice of Decision

Within 14 days after a decision is made, a copy of the decision shall be sent to the applicant and filed with the Zoning Administrator, where it shall be available for public inspection during regular office hours.

3.2.7 Withdrawal of Application

- 3.2.701 An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Zoning Administrator.
- 3.2.702 The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.
- 3.2.703 The Zoning Administrator may withdraw applications due to failure of the applicant to submit required information within 90 days of the initial request.
- 3.2.704 An applicant may postpone a scheduled public hearing once per application for up to 90 days after the date the first public hearing was scheduled to occur, after which the Zoning Administrator may withdraw the application.

SECTION 3.3 ZONING PERMIT

3.3.1 Applicability

- 3.3.101 It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Zoning Administrator has issued a zoning permit.
- 3.3.102 It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Zoning Administrator has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this UDO.

3.3.2 Application

- 3.3.201 All applications for a zoning permit shall be submitted in accordance with §3.2 (Common Review Procedures) of this Ordinance.
- 3.3.202 In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this section.

3.3.3 Action by the Zoning Administrator

If the proposed application is in conformity with the provisions of this UDO, and if all applicable permits have been approved by the Moore County Environmental Health Department, the Zoning Administrator shall issue a zoning permit, provided that all of the following conditions shall apply:

- 3.3.301 Issuance of a zoning permit shall in no case be construed as waiving any provisions of this UDO;
- 3.3.302 The Zoning Administrator shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this UDO to any person making application to excavate, construct, move, alter or use buildings, structures or land;
- 3.3.303 The Zoning Administrator shall issue a permit when the imposed conditions of this UDO are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and
- 3.3.304 The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this UDO.
- 3.3.305 Prior to the issuance of a zoning permit, the Zoning Administrator shall consult with other applicable departments, as necessary.

3.3.4 Denial

If the proposed application is not in conformity with the provisions of this Ordinance, the Zoning Administrator shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

3.3.5 Review Criteria

Zoning permits shall be approved where the Zoning Administrator determines that the proposed use or activity is in conformity with all applicable requirements of this Ordinance.

3.3.6 Expiration of Zoning Permit

Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six (6) months. If the proposed moving, constructing, altering, repairing, or use of land, as set forth in an application for a zoning permit, is discontinued for a period of one year or more, the zoning permit shall lapse and be of no further force and effect.

3.3.7 Appeal

Final action on a zoning permit may be appealed to the Board of Adjustment in accordance with **§3.14** (Administrative Appeal) of this Ordinance.

SECTION 3.4 SIGN PERMIT

3.4.1 Applicability

- 3.4.101 Except as otherwise provided in **§8.4** (Signs), no sign may be erected, located, or altered in any manner until a sign permit, and building permit if necessary, has been secured from the Moore County Planning and Community Development.
- 3.4.102 The change of copy on a legally constructed sign shall not require a permit.

3.4.2 Application Requirements

An application for sign permit shall be submitted in accordance with **§3.2.1** (Application Requirements) of this Ordinance.

3.4.3 Action by the Zoning Administrator

Following completion of the technical review period, the Director shall approve the sign permit for any sign, provided the sign meets all requirements of this Ordinance, and all other applicable electrical and building code requirements.

3.4.4 Revocation of Sign Permit

The sign permit shall be revoked if a sign is found to be in violation of the requirements of this Ordinance, or other applicable electrical and building code requirements.

3.4.5 Appeal

Final action on a sign permit may be appealed to the Board of Adjustment in accordance with §3.14 (Administrative Appeal) of this Ordinance.

SECTION 3.5 FLOODPLAIN DEVELOPMENT PERMIT

3.5.1 Applicability

- 3.5.101 This Ordinance shall apply to all Special Flood Hazard Areas and areas bounded by flood of record contours within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the County of Moore and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.
- 3.5.102 A Floodplain Development Permit shall be required in conformance with the provisions of this section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of §3.5.2 (Basis for Establishing Special Flood Hazard Areas) of this Ordinance.
- 3.5.103 No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this section and other applicable regulations.

3.5.2 Basis for Establishing Special Flood Hazard Areas

- 3.5.201 The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Moore County dated October 17, 2006, which are adopted by reference and declared to be a part of this Ordinance.
- 3.5.202 The “Flood of Record Contours” are those identified by the County of Moore in its Flood of Record Contour Map(s) dated October 17, 2006, which with accompanying supporting data, and any revision thereto, are adopted by reference and declared to be a part of this Ordinance.

3.5.3 Application Requirements

An application for a floodplain development permit shall be submitted in accordance with §3.2 (Common Review Procedures) and shall also include the following:

- 3.5.301 A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
- The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems,

grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

- The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in §3.5.2 (Basis for Establishing Special Flood Hazard Areas) of this Ordinance, or a statement that the entire lot is within the Special Flood Hazard Area;
- The boundary of the flood of record contour or a statement that the entire lot is within the flood of record contour when the lot is within or appears to be within the flood of record contour as shown on the community's Flood of Record Contour Map(s).
- Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in §3.5.2 (Basis for Establishing Special Flood Hazard Areas) of this Ordinance.
- The boundary of the floodway(s) or non-encroachment area(s) as determined in §3.5.2 (Basis for Establishing Special Flood Hazard Areas);
- The Base Flood Elevation (BFE) where provided as set forth in §3.5.2 (Basis for Establishing Special Flood Hazard Areas); §2.1.217 and §2.1.218 (Powers and Duties of the Zoning Administrator); or §12.3 (Standards for Floodplain Areas without Established Base Flood Elevations);
- The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
- Certification of the plot plan by a registered land surveyor or professional engineer.

3.5.302 Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area or flood of record contours including but not limited to:

- Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
- Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
- Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

3.5.303 If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

3.5.304 A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:

- The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

- Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with §12.2.6 (Flood Opening Design Standards), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
- 3.5.305 Usage details of any enclosed areas below the regulatory flood protection elevation.
- 3.5.306 Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- 3.5.307 Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- 3.5.308 Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure §12.2.9 (Recreational Vehicles), §12.2.10 (Temporary Non-Residential Structures) and §12.2.11 (Accessory Structures) of this Ordinance are met.
- 3.5.309 A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

3.5.4 Permit Requirements

The Floodplain Development Permit shall include, but not be limited to:

- 3.5.401 A description of the development to be permitted under the floodplain development permit.
- 3.5.402 The Special Flood Hazard Area determination for the proposed development per available data specified in §3.5.2 (Basis for Establishing Special Flood Hazard Areas).
- 3.5.403 The regulatory flood protection or flood of record elevation required for the reference level and all attendant utilities.
- 3.5.404 The regulatory flood protection or flood of record elevation required for the protection of all public utilities.
- 3.5.405 All certification submittal requirements with timelines.
- 3.5.406 A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- 3.5.407 The flood opening requirements, if in the project is located in Zones A, AO, AE or A1-30.

- 3.5.408 Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

3.5.5 Elevation Certification Requirements

- 3.5.501 An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- 3.5.502 An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. . Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- 3.5.503 A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- 3.5.504 If the Elevation Certificate is being used to obtain flood insurance through the NFIP, the certifier must provide at least two photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number. If the building has split-level or multi-level areas, provide at least two additional photographs showing side views of the building. All photographs must be in color and measure at least 3"x3". Digital photographs are acceptable.

3.5.6 Additional Certificate Requirements

- 3.5.601 **Floodproofing Certificate.** If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- 3.5.602 **Engineered Foundation Certification.** If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per [§12.2.4](#) (Manufactured Homes) of this Ordinance.
- 3.5.603 **Watercourse Altering.** If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

3.5.7 Certificate Exemptions

The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in [§3.5.5](#) (Elevation Certificate Requirements) and [§3.5.601](#) (Floodproofing Certificate) of this Ordinance.

- 3.5.701 Recreational Vehicles meeting requirements of [§12.2.9](#) (Recreational Vehicles);
- 3.5.702 Temporary Structures meeting requirements of [§12.2.10](#) (Temporary Non-Residential Structures); and
- 3.5.703 Accessory Structures less than 150 square feet meeting requirements of [§12.2.11](#) (Accessory Structures).

SECTION 3.6 FLOODPLAIN VARIANCE

3.6.1 Applicability

The Board of Adjustment as established by the County of Moore, hereinafter referred to as the “appeal board,” shall hear and decide requests for variances from the requirements of this Ordinance. Variances may be issued for:

- 3.6.101 The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- 3.6.102 Functionally dependant facilities if determined to meet the definition as stated in Article 18 (Definitions and Word Interpretations) of this Ordinance, provided provisions of **§3.6.502**, **§3.6.503**, and **§3.6.505** of this Ordinance have been satisfied, and such facilities are protected by methods that minimize flood damages.
- 3.6.103 Any other type of development, provided it meets the requirements stated in this section.

3.6.2 Application Requirements

- 3.6.201 An application for a variance from the Flood Damage Prevention provision of this UDO shall be submitted in accordance with **§3.2** (Common Review Procedures).
- 3.6.202 A written report, signed and sealed by a licensed engineer in the State of North Carolina, addressing each of the factors listed in **§3.6.3** shall be submitted with the application for a variance.

3.6.3 Technical Evaluation, Factors and Standards

In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:

- 3.6.301 The danger that materials may be swept onto other lands to the injury of others;
- 3.6.302 The danger to life and property due to flooding or erosion damage;
- 3.6.303 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 3.6.304 The importance of the services provided by the proposed facility to the community;
- 3.6.305 The necessity to the facility of a waterfront location as defined under **Article 18** (Definitions and Word Interpretations) of this Ordinance as a functionally dependant facility, where applicable;
- 3.6.306 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- 3.6.307 The compatibility of the proposed use with existing and anticipated development;
- 3.6.308 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 3.6.309 The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 3.6.310 The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- 3.6.311 The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

3.6.4 Criteria for Approval

- 3.6.401 Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or Local Laws, Regulations, or Ordinances.
- 3.6.402 Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- 3.6.403 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3.6.404 Variances shall only be issued prior to development permit approval.
- 3.6.405 Variances shall only be issued upon a showing of good and sufficient cause;
- 3.6.406 Variances shall only be issued upon a determination that failure to grant the variance would result in exceptional hardship; and
- 3.6.407 Variances shall only be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing Local Laws or Ordinances.

3.6.5 Hazardous Waste Management Facilities

A variance may not be issued for hazardous waste management facilities, salvage yards, and chemical storage facilities. A variance may be issued for solid waste disposal facilities or critical facilities located in Special Flood Hazard Areas or within an area bounded by a flood of record contour provided that all of the following conditions are met

- 3.6.501 The use serves a critical need in the community.
- 3.6.502 No feasible location exists for the use outside the Special Flood Hazard Area.
- 3.6.503 The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation or flood of record contour elevation.

- 3.6.504 Critical facilities shall have at last one access road connected to land outside of the area bounded by a flood of record contour that is capable of supporting a 4,000 pound vehicle. The top of the access road must be no lower than one-half (0.5) feet below either the regulatory flood protection elevation or the flood of record contour elevation.
- 3.6.505 The use complies with all other applicable Federal, State and local laws.
- 3.6.506 The County of Moore has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

3.6.6 Conditions of Approval

Upon consideration of the factors listed above and the purposes of this section, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this UDO.

3.6.7 Action Following Approval

- 3.6.701 The Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- 3.6.702 Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) or flood of record elevation and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

3.6.8 Appeal Following Approval

Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

SECTION 3.7 TEXT AMENDMENTS

3.7.1 Applicability

The Board of County Commissioners may, on its own motion, upon recommendation of the Planning Board, or upon petition by an interested person, amend, supplement, change, modify or repeal the regulations established by this Ordinance.

3.7.2 Initiation of Amendments

A request to amend the text of this UDO may be initiated by the Board of Commissioners, Board of Adjustment, Planning Board, Subdivision Review Board, Zoning Administrator, or the general public.

3.7.3 Application Submittal

- 3.7.301 Applications for proposed amendments to this Ordinance must be submitted to the Moore County Planning and Community Development department at least thirty (30) days prior to the Planning Board meeting at which it is to be heard.
- 3.7.302 Application shall be submitted in accordance with **§3.2** (Common Review Procedures).

3.7.4 Notice and Public Hearings

The County shall hold all required public hearings and give notice in accordance with **§3.2.4** (Public Notice) and **§3.2.5** (Public Meetings) of this Ordinance.

3.7.5 Action by the Zoning Administrator

- 3.7.501 The Zoning Administrator shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.
- 3.7.502 Following completion of technical review by staff, the Zoning Administrator shall forward the completed request and any related materials to the Planning Board for a recommendation.

3.7.6 Action by the Planning Board

- 3.7.601 The Planning Board shall make a recommendation on the text amendment application to the Board of Commissioners. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board recommendation.
- 3.7.602 Following Planning Board review, the Zoning Administrator shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Board of Commissioners for final action.

3.7.7 Action by the Board of Commissioners

- 3.7.701 Before taking action on a text amendment, the Board of Commissioners shall consider the recommendations of the Planning Board and Zoning Administrator.
- 3.7.702 The Board of Commissioners may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

3.7.8 Approval Criteria

In evaluating any proposed amendment of the text of this Ordinance, the Planning Board and the Board of Commissioners shall consider the following:

- 3.7.801 The extent to which the proposed text amendment is consistent with the remainder of the Ordinance, including, specifically, any purpose and intent statements;
- 3.7.802 The extent to which the proposed text amendment represents a new idea not considered in the existing Ordinance, or represents a revision necessitated by changing circumstances over time;
- 3.7.803 Whether or not the proposed text amendment corrects an error in the Ordinance;
- 3.7.804 Whether or not the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law;
- 3.7.805 The proposed text amendment will advance the public health, safety and welfare of Moore County.
- 3.7.806 Whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable based on NCGS [153A-341](#).

3.7.9 Withdrawal of Application

- 3.7.901 Any application submitted in accordance with the provisions of this section for the purpose of amending the regulations of this Ordinance may be withdrawn at any time, but fees are nonrefundable.
- 3.7.902 Any application that has been withdrawn shall be reconsidered only as a new petition and must comply with the submission and review requirements of this Section.

SECTION 3.8 GENERAL USE REZONINGS

3.8.1 Applicability

- 3.8.101 Amendments to the Zoning Map shall be made in accordance with the provisions of this section. The Board of Commissioners shall consider amendments to the Zoning Map, as may be required from time to time.
- 3.8.102 General Use Rezoning should correspond with the boundary lines of existing platted lots or parcels. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this Ordinance.
- 3.8.103 All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to

advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

3.8.2 Initiation of Amendment

A request for a rezoning may be initiated by the Board of Commissioners, the Planning Board, or the Zoning Administrator. An owner of land within the jurisdiction of the County (or a duly authorized agent or representative) may petition the Board of Commissioners for a rezoning.

3.8.3 Pre-Application Conference

Prior to submitting a formal application, a pre-application consultation may be conducted at the applicant's request. It is recommended that the applicant prepare a sketch plan or some depiction of the proposed development concept to a pre-application meeting with the Planning Staff to be sure the project will meet all requirements. Notwithstanding any provision contained in this Ordinance to the contrary, neither the staff's review of the plan submitted for review nor staff's comments to the Applicant relating thereto shall be considered a denial, approval or decision concerning the application.

3.8.4 Application Requirements

- 3.8.401 An application for general use rezoning shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.8.402 Application shall include a description and statement of the present and proposed zoning regulation or district boundary, and the names and addresses of the owner or owners or the property involved.
- 3.8.403 An application for a General Use Rezoning should be submitted to the Zoning Administrator no later than thirty (30) days prior to the meeting at which it is to be considered.
- 3.8.404 A separate application must be submitted for each parcel of land that has different ownership.

3.8.5 Notice and Public Hearings

- 3.8.501 The County shall hold all required public hearings and give notice in accordance with §3.2.4 (Public Notice) and §3.2.5 (Public Meetings).
- 3.8.502 If the application will result in changes to the zoning map for fifty (50) parcels or more and owned by more than fifty (50) different property owners the mailed notice may be replaced by a published notice in accordance with NC G.S 153A-323. The published advertisement shall not be less than one half of a newspaper page in size. Property owners who reside outside of the newspaper circulation area, according to the address listed in the most recent tax listing for the affected property, shall be notified according to the provisions of §3.2.403 (Mailed Notices).

3.8.6 Action by the Zoning Administrator

The Zoning Administrator shall prepare a staff report that reviews the rezoning request in accordance with the adopted plans and policies of the County and the general requirements of this UDO. Following completion of technical review by staff, the Zoning Administrator shall forward the completed request and any related materials to the Planning Board.

3.8.7 Action by the Planning Board

- 3.8.701 The Planning Board shall make a recommendation on the rezoning request to the Board of Commissioners. The Planning Board's recommendation shall include a written statement to the Board of Commissioners describing whether its recommendation is consistent with the adopted plans and policies of the County. If no such recommendation is received from the Planning Board within 30 days of referral of the request to the Planning Board, the Board of Commissioners may proceed in its consideration of the request without the Planning Board's recommendation.
- 3.8.702 Following Planning Board review, the Zoning Administrator shall forward the completed rezoning request and any related materials, including the Planning Board recommendation, to the Board of Commissioners for final action.

3.8.8 Action by the Board of Commissioners

- 3.8.801 Before taking action on a rezoning, the Board of Commissioners shall consider the recommendations of the Planning Board and Zoning Administrator.
- 3.8.802 The Board of Commissioners may approve the rezoning, deny the rezoning, continue review at a subsequent meeting, or send the rezoning back to the Planning Board for additional consideration.
- 3.8.803 Concurrently with adopting, denying, or remanding any rezoning, the Board of Commissioners shall adopt a statement describing whether its action is consistent with the adopted plans and policies of the County and explaining why the Board of Commissioners considers the action taken to be reasonable and in the public interest.

3.8.9 Approval Criteria

The following policy guidelines shall be followed concerning general use rezonings and no proposed rezoning; including small scale general use rezoning requests, will receive favorable recommendation unless:

- 3.8.901 The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- 3.8.902 There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.

- 3.8.903 There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state that they intend to make of the property involved.
- 3.8.904 There is convincing demonstration that the character of the neighborhood will not be materially or adversely affected by any use permitted in the proposed change.
- 3.8.905 The proposed change is in accord and consistent with the adopted Land Use Plan and any other adopted plans according to G.S. 153A-341 and is based on sound planning principles.

3.8.10 Modification of Application

An applicant in a zoning matter may reduce the geographic scope and or propose a district of lower density or intensity from that requested in the application by filing a statement of modification with the Zoning Administrator.

3.8.11 Reapplication for General Use Rezoning

If the application for a General Use Rezoning is denied by the Board of Commissioners, applicants must wait one full year before applying for the rezoning of the same property. Exceptions to this limitation include requests originating from the Planning Board, Board of Adjustment or County Administration. The Board of Commissioners, by eighty percent (80%) affirmative vote of its total membership, may waive this restriction if it finds any emergency exists.

SECTION 3.9 CONDITIONAL USE PERMITS

3.9.1 Applicability

- 3.9.101 Conditional uses within each general use district are uses that may or may not be appropriate in a particular district, depending on the location, the scale or size of the use, or other factors requiring individual review by the Planning Board and approval by the Board of Commissioners.
- 3.9.102 A conditional use permit shall be required for all conditional uses as set forth in the Permitted Land Use Table **Article 7** (Table of Uses).
- 3.9.103 Land uses owned by Moore County shall not be subject to the conditional use review requirements of this section. Public facilities, major and minor utilities and other land uses owned by Moore County shall be considered permitted uses.
- 3.9.104 Accessory Uses proposed by Moore County Schools shall not be subject to the conditional use requirements of this section and shall be considered a permitted use.

3.9.2 Pre-Application Conference

Prior to submitting a formal application, a pre-application consultation may be conducted at the applicant's request. It is recommended that the applicant prepare a sketch plan or some depiction of the proposed development concept for a pre-application meeting with the Planning Staff to be sure the project will meet all requirements. Notwithstanding any provision contained in this Ordinance to the contrary, neither the staff's review of the plan submitted for review nor staff's comments to the Applicant relating thereto shall be considered a denial, approval or decision concerning the application.

3.9.3 Application Submittal

- 3.9.301 The owner or owners of all the property included in the petition for a Conditional Use Permit shall submit all required application information to the Moore County Planning and Community Development Department at least thirty (30) days prior to the Planning Board meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it in this Ordinance and shall be submitted in accordance with §3.2 (Common Review Procedures) as applicable.
- 3.9.302 All Conditional Use Permit Applications shall include a Detailed Site Plan as outlined in §8.1.2 (Detailed Site Plan) of this Ordinance.

3.9.4 Notice and Public Hearings

The County shall hold all required public hearings and give notice in accordance with §3.2.4 (Public Notice) and §3.2.5 (Public Meetings).

3.9.5 Action by Zoning Administrator

- 3.9.501 Upon submission of a completed application, the Zoning Administrator shall review the request and associated detailed site plan for consistency with the requirements of this Ordinance.
- 3.9.502 Upon completion of the technical review, the Zoning Administrator shall prepare a staff report that reviews the request in accordance with the adopted plans and policies of the County, and the general requirements of this Ordinance.
- 3.9.503 The report, site plan and any related application materials shall be forwarded to the Planning Board.

3.9.6 Action by the Planning Board

- 3.9.601 The Planning Board shall review and make a recommendation, which requires a simple majority, on the Conditional Use Permit request to the Board of Commissioners.
- 3.9.602 In recommending the Conditional Use Permit the Planning Board shall follow the conditional use approval criteria as listed in §3.9.8 (Findings of Fact Required).

- 3.9.603 Following Planning Board review, the Zoning Administrator shall forward the completed Conditional Use Permit request and any related materials, including the Planning Board recommendation, to the Board of Commissioners for final action.
- 3.9.604 Should the request be denied, the applicant may elect to modify and resubmit the application to the Planning Board or take the current application to the Board of Commissioners without a positive recommendation from the Planning Board.

3.9.7 Action by the Board of Commissioners

- 3.9.701 The Board of Commissioners shall consider the application and evidence given at the public hearing and may grant or deny the Conditional Use Permit either of which requires a simple majority vote to pass.
- 3.9.702 The Board of Commissioners shall follow the conditional use approval criteria as listed in **§3.9.8** (Findings of Fact). A Conditional Use Permit request can be denied by the Board of Commissioners if the request would violate the provisions of this Ordinance if completed as proposed.
- 3.9.703 All requests for a Conditional Use Permit shall be reviewed by the Board of Commissioners within ninety (90) days of the date of referral of the request to the Planning Board.
- 3.9.704 Requests requiring revisions shall be returned to the Board of Commissioners within 90 days or the request shall be considered withdrawn.
- 3.9.705 If the Board denies the Conditional Use Permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken.

3.9.8 Findings of Fact

No conditional use permit shall be approved unless the following findings are made concerning the application:

- 3.9.801 The use will not materially endanger the public health or safety if located where proposed and developed according to plan;
- 3.9.802 The use meets all required conditions and specifications;
- 3.9.803 The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity;
- 3.9.804 The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the approved Moore County Land Use Plan.

3.9.9 Conditions

- 3.9.901 The Board of Commissioners may impose reasonable conditions in addition to any use standards listed in **Article 9** (Specific Use Standards) for the requested use and elsewhere in this Ordinance.
- 3.9.902 In order to add additional conditions, the Board of Commissioners must determine that additional conditions are necessary to protect the welfare and safety of the public and of property, or to meet the tests given elsewhere in this section.
- 3.9.903 All such additional conditions shall be entered in the minutes of the meeting at which the Conditional Use Permit is granted, on the Conditional Use Permit itself, and on the approved plans submitted therewith.
- 3.9.904 The Board of Commissioners may also waive or reduce any standards required by this Ordinance when approving a Conditional Use Permit request as long as the waiver or reduction of standards does not endanger the welfare and safety of the public and property.

3.9.10 Modifications to Approved Conditional Use Permit

If a proposed modification deviates from the approved Conditional Use Permit, the approved conditional use permit shall be amended in accordance with **§3.9** (Conditional Use Permits).

3.9.11 Effect of Decision

- 3.9.1101 If the application for a Conditional Use Permit is denied by the Board of Commissioners, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until six (6) months have elapsed from the date of denial.
- 3.9.1102 The Conditional Use Permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs.

3.9.12 Period of Validity

An approved Conditional Use Permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth in one of the following alternatives:

- 3.9.1201 A complete building permit application has been submitted and remains valid.
- 3.9.1202 Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within twenty-four (24) months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or
- 3.9.1203 If no building permit is required, a certificate of occupancy has been issued.

3.9.13 Building Permit/Certificate of Occupancy

No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the Board of Commissioners.

3.9.14 Revocation of Conditional Use Permit

- 3.9.1401 In the event of failure to comply with the plans or any other conditions imposed upon the Conditional Use Permit and approved by the Board of Commissioners the permit shall be revoked by the Zoning Administrator and become void and of no effect.
- 3.9.1402 Before revoking a permit or other authorization, the Zoning Administrator must give the holder of the permit ten (10) days written notice of intent to revoke the permit and include the reasons for the intended revocation.
- 3.9.1403 On revoking a permit, the Zoning Administrator must give the holder of the permit a written notice, including reasons for, the revocation.
- 3.9.1404 No building permits for further construction or certificates of occupancy under this Conditional Use Permit shall be issued, and all completed structures shall be regarded as nonconforming uses subject to the provisions of this Ordinance.
- 3.9.1405 In such cases, the owner of the property and owners of adjoining property shall be notified that the Conditional Use Permit is no longer in effect.
- 3.9.1406 The Zoning Administrator may reinstate a revoked conditional use permit or modification of a conditional use permit if the Zoning Administrator determines that the violations that were the cause of the revocation have been corrected.

3.9.15 Appeals

No appeal may be taken from the action of the Board of Commissioners in granting or denying a Conditional Use Permit except through the Moore County Superior Court as outlined in NCGS [153A-345\(e2\)](#) or forever be barred.

SECTION 3.10 CONDITIONAL USE DISTRICT REZONINGS

3.10.1 Applicability

- 3.10.101 Conditional Use Districts are floating districts that correspond to general zoning districts (a floating district is one which is not shown on the map until the Board of Commissioners has approved a rezoning to that particular classification.)
- 3.10.102 Conditional use districts are identical to their corresponding general zoning districts in all respects except that a conditional use permit is required as a prerequisite to any use or development within them.

- 3.10.103 Parallel conditional use rezonings are provided as a voluntary alternative method of petitioning the Board of Commissioners for a zoning map or classification change. The owner is authorized to submit only conditions that restrict the uses that would otherwise be allowed in a zoning district.
- 3.10.104 Requests for the rezoning of property to a parallel conditional use district shall be considered and treated the same as any other rezoning in accordance with the procedures set for them in **§3.9** (Conditional Use Permit) except as modified by this Article.

3.10.2 Initiation of Amendments

- 3.10.201 An amendment to the Official Map of Zoning Districts which would classify a property into a parallel conditional use district shall be initiated only by an application signed by all of the owners of the property or by an agent, lessee, or contract purchaser specifically authorized by all of the owners to file such application for such amendment.
- 3.10.202 An agent, lessee or contract purchaser shall provide the Planning Department with written documentation that all of the owners of the property have authorized the filing of the application.

3.10.3 Pre-Application Conference

- 3.10.301 Prior to submitting a formal application, a pre-application consultation may be conducted at the applicant's request. It is recommended that the applicant prepare a sketch plan or some depiction of the proposed development concept to a pre-application meeting with the Planning Staff to be sure the project will meet all requirements.
- 3.10.302 Notwithstanding any provision contained in this Ordinance to the contrary, neither the staff's review of the plan submitted for review nor staff's comments to the Applicant relating thereto shall be considered a denial, approval or decision concerning the application.

3.10.4 Application Requirements

- 3.10.401 An application for a conditional use district rezoning shall be submitted in accordance with **§3.2.1** (Application Requirements) of this Ordinance.
- 3.10.402 A properly submitted application for a conditional use district incorporates a petition for rezoning and an application for a conditional use permit, including a detailed site plan based upon **§8.1.2** (Detailed Site Plan) of this Ordinance.
- 3.10.403 The application for such amendment shall be submitted to the Planning Department at least thirty (30) days prior to the scheduled Planning Board meeting. The Planning Staff shall review the application for compliance with the appropriate sections of the Ordinance and it shall be considered officially filed

only after it is examined by the Staff and found to be in compliance with this Ordinance.

- 3.10.404 The application for such amendment shall specify the use or uses which are intended for the property, as well as any additional conditions on the use of the property that the applicant may propose being attached to approval of the rezoning and accompanying conditional use permit. The intended uses must be ones that this Ordinance allows in the corresponding general use district.
- 3.10.405 Prior to any decision by the Planning Board or Board of Commissioners, the Planning Staff may request the applicant submit additional information regarding any condition stated in the application.
- 3.10.406 After the Planning Department has delivered the notice of Public Hearing to the newspaper, the applicant shall make no changes in the conditions which are less restrictive than those stated in the application. More restrictive conditions or additional conditions may be added to the application if such conditions are received by the Planning Department in writing and signed by all owners of the property at least two working days prior to the scheduled Board of Commissioners' Public Hearing.

3.10.5 Notice and Public Hearings

The County shall hold all required public hearings and give notice in accordance with **§3.2.4** (Public Notice) and **§3.2.5** (Public Meetings).

3.10.6 Action by the Zoning Administrator

- 3.10.601 The Zoning Administrator shall review the application for compliance with the appropriate sections of the Ordinance and it shall be considered officially filed only after it is examined by the Staff and found to be in compliance with this Ordinance.
- 3.10.602 The Zoning Administrator shall prepare a staff report that reviews the rezoning request in accordance with the adopted plans and policies of the County and the general requirements of this UDO. Following completion of technical review by staff, the Zoning Administrator shall forward the completed request and any related materials to the Planning Board.

3.10.7 Action by the Planning Board

- 3.10.701 The Planning Board shall review the request for a Conditional Use District Rezoning and make a recommendation to the Board of Commissioners.
- 3.10.702 In recommending the Conditional Use Permit attached to the Conditional Use District rezoning, the Planning Board shall follow the conditional use approval criteria as listed in **§3.9.8** (Findings of Fact Required).

- 3.10.703 In recommending the Conditional Use Permit, the Planning Board automatically recommends the Conditional Use District Rezoning.
- 3.10.704 Should the request be denied, the applicant may elect to modify and resubmit the application to the Planning Board or take the current application to the Board of Commissioners without a positive recommendation from the Planning Board.

3.10.8 Action by the Board of Commissioners

- 3.10.801 The Board of Commissioners shall hold a Public Hearing to consider the Conditional Use District Rezoning and Conditional Use Permit. The hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, avoiding ex-parte contact and bias, and matching up evidence to findings of fact.
- 3.10.802 The Board of Commissioners shall review the applications including recommendations from the Planning Board, suggested conditions, and other information presented at the Public Hearing.
- 3.10.803 In approving the applications, the Board of Commissioners may attach such reasonable requirements in addition to those specified in the Planning Board's recommendation, and shall find the application meets the standards listed in **§3.9.8** (Findings of Fact).
- 3.10.804 All conditions shall be stated in the permit.

3.10.9 Alterations to Approved Conditional Use Districts

- 3.10.901 All changes or modifications to approved plans and conditions of development except for those listed below shall be considered in the same manner as the Conditional Use Permit review and approval process outlined in **§3.9** (Conditional Use Permits) and must follow the same procedures.
- 3.10.902 The following minor changes may be approved by the Planning Department without approval by the Board of Commissioners provided no Variance is required, the intent and layout of the approved plan is generally followed, conditions of approval are not violated, and such changes do not cause an impact.
- Slight variations in the building dimensions that do not depart from the general approved layout.
 - Minor changes in parking lot or traffic lane dimensions.
 - Minor dimensional changes to individual lots.
 - Minor site modifications due to necessary engineering changes.
 - Other similar insignificant changes.
- 3.10.903 In reviewing such changes, the Planning Department may require that the revision be handled in the same manner as a new project.

3.10.10 Time Limit

- 3.10.1001 Once the Conditional Use District Rezoning and Conditional Use Permit are approved, all conditions attached thereto shall be binding upon the property and all subsequent development and use of the property shall be in accordance with the approved Permits and Conditions.
- 3.10.1002 Since the intent of this type of district is to provide for workable alternative uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, at the end of two (2) years from the date of approval, the Planning Board may examine progress made to determine if active efforts are proceeding.
- 3.10.1003 If it is determined by the Planning Board that active efforts to develop are not proceeding, the Board may institute proceedings to rezone the property to its previous zoning classification.

3.10.11 Failure to Comply

If for any reason any condition imposed pursuant to this Section is found to be illegal or invalid, or if the applicant should fail to accept any condition, the authorization of such Conditional Use Permit shall be null and void and of no effect, and proceedings shall be instituted to rezone the property to its previous zoning classification in accordance with the requirements of this Article.

SECTION 3.11 CONDITIONAL ZONING

3.11.1 Applicability

- 3.11.101 There are circumstances in which a general zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of this Ordinance and adopted land development plan, comprehensive plan, corridor plans, small area plans, and other land use policy documents.
- 3.11.102 The rezoning process established in this Section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to additional conditions which ensure compatibility of the proposed use with the use and enjoyment of neighboring properties.
- 3.11.103 A conditional zoning district allows a particular use or uses to be established only in accordance with specified standards and conditions tailored to each individual development project.
- 3.11.104 This is a voluntary rezoning procedure that is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals that may not be undertaken for some time.

3.11.2 Initiation of Amendments

- 3.11.201 No tract of land may be considered for a Conditional Zoning district unless such tract is under single or unified ownership or control.
- 3.11.202 If listed in several ownerships, the application for zoning shall be accompanied by each landowner's written consent.
- 3.11.203 The holder of a written option to purchase or a developer under contract shall be considered an owner for purposes of this section provided the landowner's (or landowners') written consent is included with the application.

3.11.3 Pre-Application Conference

Prior to submitting a formal application, a pre-application consultation may be conducted at the applicant's request. It is recommended that the applicant prepare a sketch plan or some depiction of the proposed development concept to a pre-application meeting with the Planning Staff to be sure the project will meet all requirements. Notwithstanding any provision contained in this Ordinance to the contrary, neither the staff's review of the plan submitted for review nor staff's comments to the Applicant relating thereto shall be considered a denial, approval or decision concerning the application.

3.11.4 Community Meeting Required

Before an application for a Conditional Zoning District can be submitted, the petitioner must file with the Zoning Administrator a written report of at least one community informational meeting held by the petitioner.

- 3.11.401 The community informational meeting shall be held prior to the date of the Planning Board meeting at which the petition will be reviewed.
- 3.11.402 Written notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by policies established by the County.
- 3.11.403 The petitioner's report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact; the date; time and location of the meeting; a roster of the names, mailing addresses, and telephone numbers of the persons in attendance at the meeting; a summary of issues discussed at the meeting; and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting.
- 3.11.404 In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report with the Zoning Administrator documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held.
- 3.11.405 The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of County Commissioners but shall not be subject to judicial review.

3.11.5 Application Requirements

A completed application for a Conditional Zoning (except Planned Unit Developments) request shall include:

- 3.11.501 An application for a conditional use district rezoning shall be submitted in accordance with **§3.2** (Common Review Procedures) of this Ordinance.
- 3.11.502 A detailed site plan prepared in accordance with **§8.1.2** (Detailed Site Plan).
- 3.11.503 Written supporting documentation that specifies the actual use or uses proposed on the property
- 3.11.504 Proposed rules, regulations, and conditions that, in addition to all predetermined requirements of this Ordinance, will govern the development and use of the property.
- 3.11.505 A statement analyzing the reasonableness of the proposed rezoning.
- 3.11.506 Additional information may be required if deemed necessary by the Zoning Administrator after reviewing the application.

3.11.6 Application Requirements for Planned Unit Developments

Planned Unit Development rezoning requests must meet the application requirements listed in **§13.3** (Application Submittal for Planned Unit Developments).

3.11.7 Conditions to Approval

Specific conditions applicable to the conditional zoning districts may be proposed by the petitioner or the County or its agencies, but only those conditions mutually approved by the County and the petitioner may be incorporated into the zoning regulations or permit requirements.

- 3.11.701 Conditions and site-specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to County Ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.
- 3.11.702 Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Board of County Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

- 3.11.703 The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of County Commissioners.
- 3.11.704 If for any reason any condition for approval is found to be illegal or invalid or if the petitioner should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted by the County to rezone the property to its previous zoning classification or to another zoning district.

SECTION 3.12 SPECIAL NON-RESIDENTIAL INTENSITY ALLOCATION

3.12.1 Applicability

Non-residential development may occupy five percent (5%) of the watershed with a seventy percent (70%) built-upon area when approved as a Special Non-residential Intensity Allocation (SNIA).

3.12.2 Pre-Application Conference

Prior to submitting a formal application, a pre-application consultation may be conducted at the applicant's request. It is recommended that the applicant prepare a sketch plan or some depiction of the proposed development concept to a pre-application meeting with the Planning Staff to be sure the project will meet all requirements. Notwithstanding any provision contained in this Ordinance to the contrary, neither the staff's review of the plan submitted for review nor staff's comments to the Applicant relating thereto shall be considered a denial, approval or decision concerning the application.

3.12.3 Application Requirements

- 3.12.301 An application for Special Non-Residential Intensity Allocation shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.12.302 A site plan prepared by a professional engineer must be submitted with the application demonstrating compliance with §3.12.6 (Approval Criteria).

3.12.4 Action by the Zoning Administrator

- 3.12.401 The Zoning Administrator shall review the application for compliance with the appropriate sections of the Ordinance and it shall be considered officially filed only after it is examined by the Staff and found to be in compliance with this Ordinance.
- 3.12.402 The Zoning Administrator shall prepare a staff report that reviews the request in accordance with the adopted plans and policies of the County and the general requirements of this UDO. Following completion of technical review by staff, the Zoning Administrator shall forward the completed request and any related materials to the Planning Board.

3.12.5 Action by the Planning Board

- 3.12.501 The Planning Board shall act as the Watershed Review Board when hearing requests for Special Non-Residential Intensity Allocations.
- 3.12.502 The Planning Board shall consider the application and comments at the public hearing and may grant or deny the Special Non-Residential Intensity Allocation either of which requires a simple majority vote to pass.
- 3.12.503 Requests requiring revisions shall be returned to the Planning Board within 90 days or the request shall be considered withdrawn.

3.12.6 Approval Criteria

No Special Non-Residential Intensity Allocation shall be approved unless the following requirements are made.

- 3.12.601 Site Plan must demonstrate that the request will minimize built-upon surface area
- 3.12.602 All stormwater will be directed away from any surface waters
- 3.12.603 Best Management Practices will be incorporated to minimize water quality impacts.
- 3.12.604 All property subject to a request for a Special Non-Residential Intensity Allocation must be uniformly zoned.

SECTION 3.13 WATERSHED DENSITY AVERAGING CERTIFICATE

3.13.1 Applicability

- 3.13.101 Density averaging involves the use of two noncontiguous parcels and is based on the idea that the development plans for a pair of parcels can be submitted together and treated as a single project for purposes of these regulations. The amount of development allowed for the paired parcels taken together cannot exceed the amount of development that would be allowed if the parcels were developed separately.
- 3.13.102 A Density Averaging Certificate shall be obtained from the Planning Board sitting as the Watershed Review Board to ensure that both parcels considered together meet the standards of the Ordinance and that potential buyers have notice of how the watershed regulations were applied to the parcel pair. Only buyers of both of the paired parcels may submit the application for Density Averaging Certificate.
- 3.13.103 Development projects in the Balance of Watershed or Protected Area may incorporate undeveloped land elsewhere in the Balance of Watershed, Protected Area or Critical Area. The amount of additional undeveloped acreage required shall be determined by dividing the appropriate density or impervious coverage area factor into the number of dwelling units or impervious coverage area in

excess of the amount permitted on the project site by these regulations to determine the amount of other land to be reserved as undeveloped so that the overall density or intensity of the project shall not exceed the density or intensity that would be allowed if the parcels were developed separately.

3.13.104 The parcel pair shall be preferably in the same drainage area of the watershed.

3.13.105 Parcels to be used in pairs may be located in the Balance of Watershed, Protected or Critical Areas. However, if one of the parcels is located in the Balance of Watershed or Critical Area and one is located in the Protected Area, the Critical Area parcel shall not be developed. Density Averaging is not allowed between two parcels when both are in the Critical Area.

3.13.2 Application Requirements

3.13.201 A site plan for both parcels must be submitted and approved as part of the Density Averaging Certificate. If the certificate is granted, no change in the development proposal authorized for either parcel shall be made unless the permit is amended.

3.13.202 Sufficient information shall be submitted so that it may be determined that overall density of the paired parcel averaged density development, calculated either by dwelling units per acre or built upon area, shall not exceed the density that would be allowed if the parcels were developed separately.

3.13.203 Buffers shall at a minimum meet the appropriate minimum statewide water supply watershed protection requirements on both parcels in the parcel pair according to the density of development occurring on each parcel.

3.13.204 Sufficient information shall be submitted so that it may be demonstrated that the parcels are designed to:

- Minimize storm water runoff impact to the receiving waters by minimizing concentrated storm water flow;
- Maximize the use of sheet flow through vegetated areas;
- Minimize impervious surface areas;
- Locate development away from surface waters and drainage ways to the maximum extent practicable; and
- Stormwater runoff from density averaged development shall be controlled by vegetative conveyance to the maximum extent practicable.

3.13.205 Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed for so long as the requirements of this section are applicable.

3.13.206 Parties to enforcement of such agreement shall include Moore County. No such agreement shall be accepted without approval of the County Attorney as to the legal sufficiency of the documents involved.

3.13.3 Action by the Zoning Administrator

Upon issuance of a Density Averaging Certificate, the Zoning Administrator shall forward one copy to the Local Government Assistance Unit of the Division of Water Quality. Included with the approved certificate will be a site plan, registered plats for both properties, and a description of both properties and documentation reflecting the development restrictions to the parcel pair that will remain undeveloped.

3.13.4 Action by the Watershed Review Board

The Watershed Review Board shall make written findings supported by appropriate calculations and documentation that the plan as a whole conforms to the intent and requirements of this section, and that the proposed agreement assures protection of the public interest and achievement of the objectives of this section.

3.13.5 Approval Criteria

- 3.13.501 Parcel pairs being submitted for approval under this provision shall be submitted for development approval as a single unitary proposal.
- 3.13.502 Projects in the critical area may not utilize density averaging.
- 3.13.503 Undeveloped land included to meet the requirements of one project shall not be included as meeting the requirement of any existing or proposed project nor shall any land included in a parcel pair for which a watershed variance has been granted or would be required.
- 3.13.504 The preservation of undeveloped floodplain land, steep slopes, or other environmentally sensitive lands within the Critical Area is encouraged. All such land shall be properly vegetated.
- 3.13.505 The undeveloped parcel(s) or portion(s) thereof shall remain in a vegetated or natural condition and shall be placed in a permanent conservation easement granted under G.S. 121-35 to the County, a land conservation organization or other entity capable of providing for the ongoing maintenance of the undeveloped property.
- 3.13.506 At the time of the issuance of the Zoning Permit, the Density Averaging Certificate and conservation easement shall be caused to be recorded in the office of the Register of Deeds and filed with the Moore County Planning and Community Development Department. Notations shall be made by the Planning Director on the official Zoning Map and the approved development plans and or plats for future guidance in administration and as a public record.
- 3.13.507 The pattern of development and the agreement between the owners shall not be changed except by the issuance of a new or amended Density Averaging Certificate in the manner herein established.

SECTION 3.14 ADMINISTRATIVE APPEAL

3.14.1 Applicability

An appeal by any person aggrieved by a final order, interpretation or decision of the Zoning Administrator, or his deputy, of this UDO in regard to the provisions of this UDO may be taken to the Board of Adjustment.

3.14.2 Application Requirements

- 3.14.201 An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Clerk to the Board and the Board of Adjustment.
- 3.14.202 An application for appeal of an administrative decision shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.14.203 A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Clerk to the Board. The date and time of filing shall be entered on the notice.
- 3.14.204 An appeal of an administrative decision shall be filed with the Board of Adjustment within 30 days of receipt of the decision.
- 3.14.205 The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

3.14.3 Notice and Public Hearings

The County shall hold all required evidentiary hearings and give notice in accordance with §3.2.4 (Public Notice) and §3.2.5 (Public Meetings).

3.14.4 Action by the Zoning Administrator

The Zoning Administrator shall transmit to the Board of Adjustment all the papers constituting the record upon which the appealed action was taken and provide a copy of the record to the appellant and to the owner of the property that is subject of the appeal if the appellant is not the owner. The Zoning Administrator who made a decision shall be present at the hearing as a witness.

3.14.5 Action by the Board of Adjustment

- 3.14.501 The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the appealed approval, requirement, decision, or determination and shall make any requirement, decision or determination that is deemed necessary. To this end, the Board of Adjustments shall have all the powers of the officer from whom the appeal is taken.

- 3.14.502 A motion to reverse, affirm or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
- 3.14.503 If a motion to reverse or modify is not made, or fails to receive approval by the majority of the members eligible to vote, then the appeal shall be denied.
- A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
- 3.14.504 Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

3.14.6 Effect of Administrative Appeal

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, unless the administrative official from who the appeal is taken certifies to the Board of Adjustment that, because of facts stated in the affidavit, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this UDO. In that case, proceedings shall not be stayed except by restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with this Ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

3.14.7 Appeal to Court

No appeal may be taken from the action of the Board of Adjustment except through the Moore County Superior Court as outlined in NCGS [153A-345\(e2\)](#) or forever be barred.

SECTION 3.15 VARIANCES

3.15.1 Applicability

- 3.15.101 The Board of Adjustment may vary certain requirements of this UDO that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this UDO, will, in an individual case, result in unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this UDO shall be observed, public safety and welfare secured, and substantial justice done.

- 3.15.102 The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

3.15.2 Application Requirements

- 3.15.201 An application for a variance shall be submitted in accordance with §3.2 (Common Review Procedures).
- 3.15.202 Applications for variances shall include a detailed site plan as described in §8.1.2 (Detailed Site Plan).

3.15.3 Notice and Public Hearings

- 3.15.301 The County shall hold all required evidentiary hearings and give notice in accordance with §3.2.4 (Public Notice) and §3.2.5 (Public Meetings).
- 3.15.302 The Board shall fix a date for hearing the variance request, to be held within forty-five (45) days of the date a complete application was submitted, giving notice to the applicant by certified mail.

3.15.4 Burden of Proof

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

3.15.5 Action by the Zoning Administrator

- 3.15.501 The Zoning Administrator shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request.
- 3.15.502 For Variances from **Article 11** (Watershed Overlay Districts), the Zoning Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Administrator prior to a decision by the Board of Adjustment. Such comments shall become a part of the record of the proceedings of the Board of Adjustment and must be received within a reasonable period of time.

3.15.6 Action by the Board of Adjustment

- 3.15.601 The Board of Adjustment may approve the request, deny the request, or continue the request.
- 3.15.602 Each decision shall be accompanied by a finding of fact that specifies the reason for the decision.

- 3.15.603 If a motion to approve a variance is made, or fails to receive approval by four-fifths of the members eligible to vote, the variance shall be denied.
- 3.15.604 In approving the variance, the Board of Adjustment may prescribe appropriate conditions provided that the conditions are reasonably related to the variance.
- 3.15.605 Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this UDO.

3.15.7 Findings of Fact

No variance shall be approved by the Board of Adjustment unless all of the following findings are made:

- 3.15.701 That unnecessary hardship would result from the strict application of the UDO and it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- 3.15.702 That the hardship results from conditions that are peculiar to the property, such as location, size, or topography, and hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
- 3.15.703 That the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
- 3.15.704 That the requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

3.15.8 Reapplication of Variance Request

The Board of Adjustment shall not hear an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the application.

3.15.9 Appeal to Court

Any decision by the Board of Adjustment may be appealed in accordance with G.S. § Chapter 7A of the North Carolina General Statutes.

SECTION 3.16 LEVEL 1 MINOR SUBDIVISION

3.16.1 Applicability

A Level 1 Minor Subdivision is a subdivision that:

- 3.16.101 Consists of four (4) or less lots fronting an existing, approved public or private road;
- 3.16.102 Does not require any new public or private road to be constructed or dedicated nor easements for access to interior property;
- 3.16.103 Does not require the extension of a public water or sewer line other than laterals to serve individual lots;
- 3.16.104 Does not necessitate the installation of drainage improvements that would require easements through the property not being subdivided and;
- 3.16.105 Does not require a variance or waiver from any of the requirement of this UDO.

3.16.2 Application Requirements

- 3.16.201 All applications for minor plat review shall be submitted in accordance with [§3.2](#) (Common Review Procedures).
- 3.16.202 A plat must be submitted in accordance with [§3.17.3](#) (Plat Submittal Requirements) of this Ordinance.

3.16.3 Plat Submittal Requirements

The applicant for Level 1 minor subdivision plat approval shall submit to the Subdivision Administrator a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Moore County Register of Deeds Office for recording purposes. The Level 1 Minor subdivision plat shall contain the following information:

- 3.16.301 The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Moore County Registry;
- 3.16.302 The name and address of the subdivision owner or owners;
- 3.16.303 The Township, County and State where the subdivision is located;
- 3.16.304 The name of the surveyor and surveyor's registration number and the date of survey;
- 3.16.305 The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
- 3.16.306 All of the additional information required by NCGS [47-30](#), NCGS [39-32.3](#) of the North Carolina General Statutes, and [Appendix B](#) (Subdivision Plat Requirements) of this Ordinance; and

- 3.16.307 All of the applicable certificates and statements required in **Appendix C** (Subdivision Plat Certificates and Statements) of this Ordinance.
- 3.16.308 When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision.

3.16.4 Action by the Zoning Administrator

- 3.16.401 Upon submission of a completed application, the Zoning Administrator shall determine whether the plat conforms to the standards of a Level 1 Minor subdivision.
- 3.16.402 The Zoning Administrator shall render decision within fourteen (14) working days after receipt of the completed application.
- 3.16.403 If no decision is rendered by the Zoning Administrator within the required fourteen day period, the applicant may refer the Level 1 Minor plat to the Subdivision Review Board for review of the application under the major subdivision application approval process outlined in **§3.19** (Major Subdivision Preliminary Plat Review) of this Ordinance.
- 3.16.404 If the subdivision is disapproved, the Zoning Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.

3.16.5 Expiration of Plat

- 3.16.501 Approval of a Level 1 Minor plat is contingent upon the plat being recorded within sixty (60) days after the date the Certificate of Approval is signed by the Zoning Administrator or the Administrator's designee.
- 3.16.502 Failure to record the approved plat within the specified 60-day period shall render the plat null and void.

SECTION 3.17 LEVEL 2 MINOR SUBDIVISION

3.17.1 Applicability

A Level 2 Minor Subdivision is a subdivision that meets one of the following criteria:

- 3.17.101 Consists of four (4) or less lots fronting on a newly created private road.
- 3.17.102 Qualifies as a Level 1 Minor but a waiver from this Ordinance is requested.

3.17.2 Application Requirements

- 3.17.201 All applications for minor plat review shall be submitted in accordance with **§3.2** (Common Review Procedures).

- 3.17.202 A plat must be submitted in accordance with **§3.18.3** (Plat Submittal Requirements) of this Ordinance.

3.17.3 Plat Submittal Requirements

The applicant for Level 2 minor subdivision plat approval shall submit to the Zoning Administrator a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Moore County Register of Deeds Office for recording purposes. The Level 2 Minor subdivision plat shall contain the following information:

- 3.17.301 The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Moore County Registry;
- 3.17.302 The name and address of the subdivision owner or owners;
- 3.17.303 The Township, County and State where the subdivision is located;
- 3.17.304 The name of the surveyor and surveyor's registration number and the date of survey;
- 3.17.305 The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
- 3.17.306 All of the additional information required by NCGS [47-30](#), NCGS [39-32.3](#) of the North Carolina General Statutes, and **Appendix B** (Subdivision Plat Requirements); and
- 3.17.307 All of the applicable certificates and statements required by **Appendix C** (Subdivision Plat Certificates and Statements) of this Ordinance.
- 3.17.308 When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision.

3.17.4 Action by the Zoning Administrator

- 3.17.401 If the Subdivision Administrator determines that the submitted plat is incomplete, the Subdivision Administrator shall notify the applicant of the deficiencies. Plats shall not be forwarded to the Subdivision Review Board for review and approval until all deficiencies have been corrected.
- 3.17.402 Once the application and plat have been deemed complete the Zoning Administrator shall schedule a Subdivision Review Board meeting for a review of the Level 2 Minor subdivision plat.

3.17.5 Additional Review

At a minimum, the following agencies shall be given an opportunity to make recommendations concerning a subdivision plat before the plat is approved:

- 3.17.501 The NCDOT district highway engineer as to proposed State roads, State highways, and related drainage systems; and
- 3.17.502 The County Health Director or local public utility, as appropriate, as to proposed water and/or sewer systems; and
- 3.17.503 NC Department of Environment and Natural Resources; and
- 3.17.504 US Army Corps of Engineers.

3.17.6 Waivers

An applicant may request a waiver from the provisions of **Article 17** (Subdivision Regulations Subdivision in accordance with **§3.22** (Waiver from Subdivision Regulations) of this Ordinance.

3.17.7 Action by the Subdivision Review Board

- 3.17.701 The Subdivision Review Board (SRB) shall review the preliminary plat and the findings and recommendations of the Zoning Administrator, and any other reports or recommendations pertaining to the plat and shall approve, approve with conditions, or disapprove the preliminary plat. The Subdivision Review Board shall review and take action on each preliminary plat within sixty days after first consideration by the Subdivision Review Board.
- 3.17.702 If approval is granted, written confirmation shall be made on two copies of the preliminary plat. One copy of the approved preliminary plat shall be returned to the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with the construction of the necessary improvements.
- 3.17.703 If the SRB conditionally approves the preliminary plat, the conditions and reasons thereof shall be stated in writing.
- 3.17.704 If the SRB disapproves the preliminary plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply. The applicant may make the recommended revisions and submit a revised preliminary plat.

3.17.8 Expiration of Plat Approval

- 3.17.801 Level 2 Minor subdivision plat approval shall be valid for a period of 2 years from the date of approval of the plat by the Subdivision Review Board unless an extension of time is applied for and granted by the Subdivision Review Board or unless a longer time period is established under applicable vested rights provisions.
- 3.17.802 Preliminary plats whose approval has elapsed shall be resubmitted in accordance with the provisions of this section.
- 3.17.803 Resubmitted plats shall conform to the current requirements of this Ordinance.

SECTION 3.18 FAMILY SUBDIVISION

3.18.1 Applicability

A Family Subdivision is a subdivision that:

- 3.18.101 Subdivisions involving the creation of lots for residential purposes which are to be deeded only to immediate family members and cannot be resold or deeded for three years.
- 3.18.102 For purposes of this section “immediate family members” shall be defined to include only: husbands, wives, mothers, fathers, brothers, sisters, children (biological, adopted, or step), grandmothers, grandfathers, grandchildren (biological, adopted, or step), aunts, uncles, nieces, and nephews.

3.18.2 Application Requirements

- 3.18.201 All applications for Family Subdivision plat review shall be submitted in accordance with [§3.2](#) (Common Review Procedures).
- 3.18.202 A plat must be submitted in accordance with [§3.19.3](#) (Plat Submittal Requirements) of this Ordinance.

3.18.3 Plat Submittal Requirements

The applicant for Family subdivision plat approval shall submit to the Zoning Administrator a plat drawn in waterproof ink on a sheet made of material and of a size that will be acceptable to the Moore County Register of Deeds Office for recording purposes. The Family subdivision plat shall contain the following information:

- 3.18.301 The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Moore County Registry;
- 3.18.302 The name and address of the subdivision owner or owners;
- 3.18.303 The Township, County and State where the subdivision is located;
- 3.18.304 The name of the surveyor and surveyor’s registration number and the date of survey;
- 3.18.305 The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph;
- 3.18.306 All of the additional information required by NCGS [47-30](#) and NCGS [39-32.3](#) of the North Carolina General Statutes, and [Appendix B](#) (Subdivision Plat Requirements) of this Ordinance; and
- 3.18.307 All of the applicable certificates and statements required in [Appendix C](#) (Subdivision Plat Certificates and Statements) of this Ordinance.

- 3.18.308 When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision.

3.18.4 Action by the Zoning Administrator

- 3.18.401 Upon submission of a completed application, the Zoning Administrator shall determine whether the plat conforms to the standards of a Family subdivision as defined in **§17.2.3** (Family Subdivisions Standards) of this Ordinance.
- 3.18.402 The Zoning Administrator shall render decision within fourteen (14) working days after receipt of the completed application.
- 3.18.403 If no decision is rendered by the Zoning Administrator within the required fourteen day period, the applicant may refer the Family Subdivision plat to the Subdivision Review Board for review of the application under the major subdivision application approval process outlined in **§3.20** (Major Subdivision Preliminary Plats).
- 3.18.404 If the subdivision is disapproved, the Zoning Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.

3.18.5 Expiration of Plat Approval

Approval of a Family Subdivision plat is contingent upon the plat and all associated documents being recorded within sixty days after the date the Certificate of Approval is signed by the Zoning Administrator or the Administrator's designee. Failure to record the approved plat and all associated documents within the specified 60-day period shall render the plat null and void.

SECTION 3.19 MAJOR SUBDIVISION PRELIMINARY PLATS

3.19.1 Applicability

A major subdivision is the division of a lot, tract or parcel of land into five or more lots, tracts, parcels or other divisions of land at initial time of division or accumulative over a period of three (3) years. The parent lot, tract or parcel of land counts as one of the subdivided lots, tracts or other subdivisions of land for the purpose of determining whether the application for approval is to be treated as a major or minor subdivision.

3.19.2 Application Requirements

- 3.19.201 All applications for Major Preliminary plat review shall be submitted in accordance with **§3.2** (Common Review Procedures).
- 3.19.202 A plat must be submitted in accordance with **§3.19.3** (Preliminary Plat Submittal Requirements) of this Ordinance.

3.19.3 Preliminary Plat Submittal Requirements

The preliminary plat shall meet the requirements of **Article 17** (Subdivision Regulations) and contain the following information:

- 3.19.301 The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Moore County Registry;
- 3.19.302 The name, address, and telephone number of the subdivision owner or owners;
- 3.19.303 The Township, County and State where the subdivision is located;
- 3.19.304 The name, address, and telephone number of the surveyor, surveyor's registration number, and the date of survey;
- 3.19.305 The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph; and
- 3.19.306 All of the additional information required by NCGS [47-30](#) and NCGS [39-32.3](#) of the North Carolina General Statutes and **Appendix B** (Subdivision Plat Requirements) of this Ordinance.

3.19.4 Subdivision in Phases

- 3.19.401 When a subdivision is to be developed in phases, the preliminary plat shall be submitted for the entire development.
- 3.19.402 The boundary of each phase shall be shown on the preliminary plat.
- 3.19.403 A final plat may be submitted for each phase.

3.19.5 Action by the Zoning Administrator

- 3.19.501 The Zoning Administrator shall review the preliminary plat in accordance with the requirements of **Article 17** (Subdivision Regulations) as well as any other provision of this Ordinance that may apply.
- 3.19.502 If the Zoning Administrator determines that the submitted plat is incomplete, the Zoning Administrator shall notify the applicant of the deficiencies. Plats shall not be forwarded to the Subdivision Review Board for review and approval until all deficiencies have been corrected.
- 3.19.503 Once the application and plat have been deemed complete the Zoning Administrator shall schedule a Subdivision Review Board meeting for a review of the major subdivision plat.

3.19.6 Additional Review

At a minimum, the following agencies shall be given an opportunity to make recommendations concerning a subdivision plat before the plat is approved:

- 3.19.601 The NCDOT district highway engineer as to proposed State roads, State highways, and related drainage systems; and

- 3.19.602 The County Health Director or local public utility, as appropriate, as to proposed water and/or sewer systems; and
- 3.19.603 NC Department of Environment and Natural Resources; and
- 3.19.604 US Army Corps of Engineers.

3.19.7 Waivers

An applicant may request a waiver from the requirements listed in this section or in **Article 17** (Subdivision Regulations) in accordance with **§3.21** (Waiver from Subdivision Regulations) of this Ordinance.

3.19.8 Action by the Subdivision Review Board

- 3.19.801 The Subdivision Review Board shall review the preliminary plat and the findings and recommendations of the Zoning Administrator, and any other reports or recommendations pertaining to the plat and shall approve, approve with conditions, or disapprove the preliminary plat. The Subdivision Review Board shall review and take action on each preliminary plat within sixty days after first consideration by the Subdivision Review Board.
- 3.19.802 If approval is granted, written confirmation shall be made on two copies of the preliminary plat. One copy of the approved preliminary plat shall be returned to the applicant. Approval of the preliminary plat is authorization for the applicant to proceed with the construction of the necessary improvements.
- 3.19.803 If the SRB conditionally approves the preliminary plat, the conditions and reasons thereof shall be stated in writing.
- 3.19.804 If the SRB disapproves the preliminary plat, the reasons for disapproval shall be stated in writing and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply. The applicant may make the recommended revisions and submit a revised preliminary.

3.19.9 Expiration of Preliminary Plat for Major Subdivisions

- 3.19.901 Preliminary plat approval shall be valid for a period of two (2) years from the date of approval of the plat by the Subdivision Review Board unless an extension of time is applied for and granted by the Subdivision Review Board or unless a longer time period is established under applicable vested rights provisions.
- 3.19.902 Preliminary plats whose approval has elapsed shall be resubmitted in accordance with the provisions of this Section.
- 3.19.903 Resubmitted plats shall conform to the current requirements of these subdivision regulations.

SECTION 3.20 MAJOR SUBDIVISION FINAL PLATS

3.20.1 Applicability

The final plat shall conform substantially to the approved preliminary plat. If the submitted final plat deviates in its overall design from the approved preliminary plat, the plat shall be reviewed by the Subdivision Review Board following the same review and approval procedures set forth in [§3.19](#) (Major Subdivision Preliminary Plats) for preliminary plats. A reduction in lots or changes to reduce impact from the development (ex. lots sizes changed to accommodate watershed restrictions) shall not require additional review.

3.20.2 Application Requirements

- 3.20.201 The applicant for final plat approval shall submit to the Subdivision Administrator a final plat made of material and of a size that will be acceptable to the Moore County Register of Deeds Office for recording purposes.
- 3.20.202 When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision.
- 3.20.203 The scale of the plat shall be at one-inch equals not more than two hundred feet.
- 3.20.204 The applicant shall also submit seven prints of the plat as well as any required application forms and any required fee.

3.20.3 Final Plat Submittal Requirements

The final plat shall meet the requirements of [Article 17](#) (Subdivision Regulations) and contain the following information:

- 3.20.301 The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Moore County Registry;
- 3.20.302 The name, address, and telephone number of the subdivision owner or owners;
- 3.20.303 The Township, County and State where the subdivision is located;
- 3.20.304 The name, address, and telephone number of the surveyor, surveyor's registration number, and the date of survey;
- 3.20.305 The scale according to which the plat is drawn in feet per inch or scale ratio in words or figures and bar graph; and
- 3.20.306 All of the additional information required by NCGS [47-30](#) and NCGS [39-32.3](#) of the North Carolina General Statutes, and [Appendix B](#) (Subdivision Plat Requirements) of this Ordinance.
- 3.20.307 All of the applicable certificates and statements required in [Appendix C](#) (Subdivision Plat Certificates and Statements).

3.20.4 Action by the Zoning Administrator

- 3.20.401 The Zoning Administrator shall approve the final plat unless the Zoning Administrator finds that the plat fails to comply with one or more of the requirements of this Ordinance or that the final plat differs substantially from the plans and specifications approved for the preliminary plat.
- 3.20.402 If the final plat is disapproved by the Subdivision Administrator, the applicant shall be furnished with a written statement of the reasons for the disapproval and reference shall be made to the specific section(s) of this Ordinance with which the plat does not comply.
- 3.20.403 The Zoning Administrator shall take expeditious action on a final plat. If the Subdivision Administrator fails to act within 15 business days after the final plat is submitted, the applicant may request that the final plat be reviewed by the Subdivision Review Board for final plat approval according to the same review and approval procedures set forth in **§3.19** (Major Subdivision Preliminary Plats) for preliminary plats.
- 3.20.404 When the final plat is approved by the Zoning Administrator, a signed written certification to this effect shall be entered on the face of the plat (see **Appendix C** (Subdivision Plat Certificates and Statements) for certificate wording).
- 3.20.405 The Zoning Administrator may at any time refer an application for final plat approval to the entity that approved the preliminary plat. In such case, the plat shall be reviewed and a decision made regarding its approval or disapproval according to the same review and approval procedures set forth in **§3.19** (Major Subdivision Preliminary Plats) for preliminary plats.
- 3.20.406 No final plat shall be approved until all required improvements have been installed and approved or appropriate surety has been provided as set forth in **§17.6** (Improvement Guarantees for Major Subdivisions) of this Ordinance.

3.20.5 Inspection of Required Improvements for Major Subdivisions

Before approval of the final plat or before the release of improvements guarantees, the subdivider shall acquire the services of a licensed professional to supervise the construction, inspect upon completion, and certify in writing to the Subdivision Administrator that the improvements have, in fact, been installed in accordance with the requirements of this UDO, with the preliminary plat, or explanations and drawings of any necessary changes, and with the Division of Highway's Minimum Construction Standards.

3.20.6 Appeal

If a final plat is disapproved by the Zoning Administrator, the applicant may appeal the decision by requesting that the final plat be scheduled for review by the Subdivision Review Board according to the same review and approval procedures set forth in **§3.19** (Major Subdivision Preliminary Plats) for preliminary plats.

3.20.7 Expiration of Final Plat

Approval of a final plat is contingent upon the plat being recorded in the Office of the Register of Deeds within sixty days after the approval date of the final plat. Failure to record the approved plat within the specified 60-day period shall render the plat null and void.

SECTION 3.21 WAIVER FROM SUBDIVISION REGULATIONS

3.21.1 Applicability

Where the Subdivision Review Board finds that extraordinary hardships or practical difficulties may result from strict compliance with **Article 17** (Subdivision Regulations), and the intent of this Ordinance may be served to a greater extent by an alternative proposal, a waiver may be granted.

3.21.2 Application

- 3.21.201 An application for waiver from the subdivision regulations shall be submitted in accordance with **§3.2** (Common Review Procedures).
- 3.21.202 Application shall be submitted concurrently with the application for preliminary plat review.
- 3.21.203 An application shall also contain a statement by the subdivider explaining the reasons for a request for a waiver from the subdivision regulations.

3.21.3 Action by the Zoning Administrator

Once the application and plat have been deemed complete the Zoning Administrator shall schedule a Subdivision Review Board meeting for a review of requested waiver and preliminary subdivision plat in accordance with **§3.19** (Major Subdivision Preliminary Plats) of this Ordinance.

3.21.4 Action by the Subdivision Review Board

- 3.21.401 The Subdivision Review Board shall review the request waiver from the subdivision regulations concurrently with the preliminary plat.
- 3.21.402 The findings and recommendations of the Zoning Administrator, and any other reports or recommendations pertaining to the plat and waiver request shall be used by the Subdivision Review Board when reviewing waiver requests.
- 3.21.403 The Subdivision Review Board may approve, approve with conditions, or disapprove the request for a waiver from the subdivision regulations.
- 3.21.404 The Subdivision Review Board shall review and take action on each preliminary plat within sixty days after first consideration by the Subdivision Review Board.
- 3.21.405 If the Subdivision Review Board conditionally approves the waiver request and preliminary plat, the conditions and reasons thereof shall be stated in writing.

- 3.21.406 If the Subdivision Review Board disapproves the waiver request, the reasons for disapproval shall be stated in writing. The applicant may make the recommended revisions and submit a revised preliminary.

3.21.5 Approval Criteria

A waiver may be granted during the preliminary plat approval process if one of the following circumstances exist:

- 3.21.501 **Physical Hardship.** Where because of the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas, or the existence of other physical conditions peculiar to the site, strict compliance with the provisions of the Ordinance would cause practical difficulties on the subdivider above and beyond what other subdividers would face.
- 3.21.502 **Equal or Better Performance.** Where, in the opinion of the Subdivision Review Board, a variance will result in equal or better performance in furtherance of the purposes of this UDO.

SECTION 3.22 VESTED RIGHTS

3.22.1 Applicability

- 3.22.101 The purpose of this section is to implement the provisions of NCGS [153A-344.1](#) of the North Carolina General Statutes pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.
- 3.22.102 Following approval or conditional approval of a site specific development plan, nothing in this UDO shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval; provided that such reviews and approvals are not inconsistent with the original approval.
- 3.22.103 Nothing in this UDO shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this UDO.

3.22.2 Establishment

- 3.22.201 A vested right shall be deemed established upon the valid approval, or conditional approval, of the above mentioned subdivision plat or Conditional Use Permit. Such vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the subdivision plat or Conditional Use Permit.
- 3.22.202 A right that has been vested as provided for in this section shall remain vested for a period of two (2) years. This vesting shall not be extended by any amendments

or modifications unless expressly provided by the County. The County may, but is not required to, extend the vested term to a maximum total of five (5) years.

3.22.3 Procedure

- 3.22.301 At the time that the landowner submits an application for a subdivision plat or Conditional Use Permit the landowner must declare he is seeking to acquire a vested right pursuant to NCGS [153A-344.1](#) of the North Carolina General Statutes and the Moore County Unified Development Ordinance by completing the appropriate form.
- 3.22.302 For subdivision plats, where a vested right will be sought, the Zoning Administrator will advertise and schedule a public hearing following the same procedure used for Conditional Use Permits. (For Conditional Use Permits, the scheduling of public hearings is automatic.)
- 3.22.303 For proposed developments that do not require subdivision plat approval or a Conditional Use Permit, the landowner may seek to establish a vested right by following procedures for application for a Conditional Use Permit.
- 3.22.304 A variance shall not constitute a site specific development plan and approval of a site specific development plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

3.22.4 Termination

A vested right, once established as provided for in this section, precludes any zoning action by the County which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan, except that the right will be terminated in the following circumstances:

- 3.22.401 With written consent of the affected landowner;
- 3.22.402 Upon finding by Ordinance after notice and public hearing that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
- 3.22.403 To the extent that the affected landowner receives compensation for all costs and losses;
- 3.22.404 Upon finding by Ordinance after notice and public hearing that the landowner, or his representative, intentionally supplied inaccurate information or made material misrepresentations that made a difference in the plan approval by the County;
- 3.22.405 Upon the enactment of a State or federal law or regulation that precludes development as contemplated in the site specific development plan; or,
- 3.22.406 At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

SECTION 3.23 EXTRA-TERRITORIAL JURISDICTION (ETJ) EXPANSION PROCEDURES

3.23.1 Applicability

Per the NC General Statutes (NCGS [160A-360](#)), the Moore County Board of Commissioners must approve any extra-territorial jurisdiction (ETJ) expansion given that the County is currently enforcing zoning and subdivision regulations as well as the State Building Code within the proposed area.

3.23.2 Initiation of Amendment and Application Requirements

- 3.23.201 An application for an Extra-Territorial Jurisdiction (ETJ) expansion Allocation shall be submitted in accordance with [§3.2](#) (Common Review Procedures).
- 3.23.202 In addition, the applicant shall submit the following documents:
- Request by the municipality for the proposed ETJ expansion
 - Map Depicting the proposed ETJ expansion with parcels
 - Municipal approval of the proposed ETJ expansion

3.23.3 Notice and Public Hearings

- 3.23.301 The County shall hold all required public hearings and give notice in accordance with [§3.2.4](#) (Public Notice) and [§3.2.5](#) (Public Meetings).

3.23.4 Action by the Zoning Administrator

- 3.23.401 The Zoning Administrator shall review the submitted documents for completeness and prepare a staff report that reviews the request in accordance with the adopted plans and policies of the County and the general requirements of this UDO. Following completion of technical review by staff, the Zoning Administrator shall forward the completed request and any related materials to the Planning Board.

3.23.5 Action by the Planning Board

- 3.23.501 The Moore County Planning Board shall hold a public meeting, at which the Board of County Commissioners may sit concurrently with the Planning Board, if the Board of Commissioners so desires.
- 3.23.502 The Planning Board shall provide a recommendation, which requires a simple majority vote to pass, to the Board of County Commissioners in regards to the proposed ETJ Expansion.
- 3.23.503 Following Planning Board review, the Zoning Administrator shall forward the application materials and the Planning Board recommendation, to the Board of Commissioners for final action.

3.23.6 Action by the Board of Commissioners

- 3.23.601 The Moore County Board of Commissioners shall call for a public hearing for the next available regular evening meeting date, providing time for proper notification to affected property owners.
- 3.23.602 Notice of the public hearing shall be done in accordance with [§3.2.4](#) (Public Notice) and [§3.2.5](#) (Public Meetings). The Board of County Commissioners can provide for additional public hearings if so desired, in order to provide an opportunity for the general public and affected property owners to provide comments on the proposed ETJ expansion.
- 3.23.603 If approved, a resolution approving an agreement between the County of Moore and the municipality must be signed by the Chairman of the Board of Commissioners, approving the ETJ expansion.